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EXTRAORDINARY

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RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 11th March, 1955:—

BILL No. 1 OF 1955

A Bill to provide for the better control and supervision of orphanages and widows' homes in India.

WHEREAS it is expedient to provide for the better control and supervision of orphanages and widows' homes in India:

BE it enacted by Parliament in the Sixth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Orphanages and Widow's Homes Act, 1955.

(2) It extends to the whole of India except the State of Jammu and Kashmir and Part 'C' States.

(3) It shall come into force on such date and in such areas as the State Governments may, by notification in their respective official gazettes, appoint, and different dates may be appointed for different areas.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Board" means the Board of Control as provided in section 11;

(b) "Chairman" means Chairman of the Board of Control as provided in section 13;

(c) "Executive Officer" means an officer as provided in section 15;

(d) "managing committee" or "committee of management" means the committee of management constituted or deemed to be constituted under section 10;

(e) "orphan" means a boy or girl, under eighteen years of age, who had lost his or her parents or has been abandoned or is not claimed by his or her parents or guardian or is voluntarily surrendered by his or her parents or guardians on account of their inability to bring up the child;

(f) "orphanage" means an institution by whatever name it may be called, where orphans are kept or intended to be kept for care and education;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "recognised" means recognised by a State Government by giving a certificate of authority to an orphanage or a widows' home to function as such under the provisions of this Act;

(i) "registered member" means a member of an orphanage or a widows' home whose name occurs in the roll of the subscribers' register maintained by the managing committee and who pays a prescribed annual subscription to enable himself or herself to vote in the matter of management of the orphanage or widows' home under the rules framed by each orphanage or widows' home and election of the managing committee;

NOTE.—The registered member may be a "life member" or an "ordinary member" or a "patron" as the rules of a particular orphanage or widows' home may provide on payment of membership fee fixed for such classes of memberships;

(j) "trust" and "trustee" shall have the same meanings as are assigned to them, respectively, under the Indian Trusts Act, 1882 (II of 1882) ;

(k) "widow" means a woman who has no husband or anybody to look after her and may include a married woman who has been abandoned by her husband and neglected by other relations; and

(l) "widows' home" means an institution, by whatever name it may be called, where widows or females of any age are kept or are intended to be kept for care.

3. Recognition, maintenance and classification of an orphanage or a widows' home.—(1) There shall be maintained and recognised in every district town of a State at least one orphanage and one widows' home of any one of the categories provided in sub-section (3).

(2) No orphanage or widows' home shall be established or maintained which is not recognised and no orphanage or widows' home shall be recognised which does not conform to the conditions laid down in this Act:

Provided that the managing committee of any orphanage or widows' home functioning at the time of the commencement of this Act shall be allowed a period of six months from the date of commencement to obtain such recognition.

(3) There shall be the following categories of orphanages and widows' homes: (i) State-managed, (ii) State-aided and (iii) private.

Explanation.—(i) The State-managed orphanage or State-managed widows' home will be that which will be solely financed by the State; (ii) the State-aided orphanage or State-aided widows' home will be that which will be partially financed by the State; (iii) private orphanage or private widows' home will be that which will be solely financed by funds provided by public subscriptions or under any trust by private individual or by any charitable or missionary body:

4. Religious orphanage or widows' home.—The orphanages or widows' homes under category (iii) mentioned in sub-section (3) of section 3 may impart religious instruction of any particular denomination but shall not be entitled to any State-aid.

5. Moral instructions.—The orphanages and widows' homes under categories (i) and (ii) mentioned in sub-section (3) of section 3 may impart moral lessons culled from all the important religious precepts of the world on the model of Mahatma Gandhi's prayer.

6. Grant of recognition.—Subject to the provisions of this Act and the rules made thereunder, the Board may, on receipt of an application from any orphanage or widows' home in the prescribed form containing the prescribed particulars, grant to such orphanage or widows' home recognition in the prescribed form for opening and maintaining or, as the case may be, for maintaining an orphanage or widows' home on such conditions as may be specified in the letter of recognition.

7. Withdrawal of recognition.—The Board may, at any time by an order served on the managing committee, withdraw recognition with effect from a date specified in the notice, if—

(i) there is contravention of any provisions of this Act or of any rules made thereunder or of any condition subject to which the recognition was granted or renewed: or

(ii) in the opinion of the Board, the condition, management or superintendence of the orphanage or widows' home was not satisfactory;

and the orphanage or widows' home shall cease to function from the date specified in the order.

8. Notice by managing committee for closing of orphanages and widows' homes.—(1) A managing committee of an orphanage or a widows' home may give six months' notice to the Board of Control of its intention to close the orphanage or widows' home in respect of which recognition has been granted and unless such notice is subsequently withdrawn by the managing committee, the Chairman, on a resolution of the Board, shall withdraw recognition on the expiry of six months from the date of the notice whereupon the orphanage or widows' home shall cease to function.

(2) No persons shall be received into such orphanage or widows' home after the date of the notice referred to in sub-section (1) and, if such notice is subsequently withdrawn, before the date of the withdrawal of such notice.

9. Orders regarding custody of inmates on withdrawal of recognition.—While passing any order for withdrawal of recognition under sections 7 and 8, the Chairman may pass such orders as he thinks fit for the proper custody, including lodging and boarding, of the inmates of the orphanage or widows' home concerned or for the transfer of such inmates to any other orphanage or widows' home in consultation with the committee of management of that orphanage or widows' home.

10. Managing committee.—(1) For the control and management of every orphanage or widows' home, there shall be constituted a managing committee elected by the registered members:

Provided that, in case there is a committee of management, by whatever name it may be called, for an orphanage or a widows' home at the date of the commencement of this Act, such committee of management shall be deemed to be the committee of management for such orphanage or widows' home for a period of one year from such date and before the expiry of that period a new committee of management shall be constituted under this section for such orphanage or widows' home:

Provided further that in case an orphanage or a widows' home has been established under a trust and the administration of the trust is vested in the trustees or any committee or association appointed by the founder of the trust or by a competent court or under authority of any law for the time being in force, the trustees or such committee or association, as the case may be, shall be deemed to be the committee of management for such orphanage or widows' home:

Provided also that where the maintenance of the orphanage or widows' home is only one of the objects of the trust and the trustees, committee or association, as the case may be, have to manage also the affairs relating to the other objects of the trust, a separate committee of management shall be constituted under this section within a period of one year from the commencement of this Act for the control and management of such orphanage or widows' home.

(2) The composition of the committee of management elected under sub-section (1) and the term of office of members thereof shall be such as may be prescribed subject, in the case of an orphanage or a widows' home established by a trust, to the terms of the trust, but not contrary to the provisions of this Act.

(3) All the powers of management of an orphanage or a widows' home shall be vested in the managing committee subject to the provisions of this Act.

11. Board of Control.—There shall be a Board of Control for the maintenance and supervision of orphanages and widows' homes in every State with its head office at the capital of the State.

12. Constitution of the Board of Control.—The Board of Control shall consist of one representative from each of the district orphanages and widows' homes from within the State existing at the time of the constitution of the first Board and thereafter as prescribed.

13. Chairman of the Board.—There shall be a Chairman of the Board of Control elected by the members of the Board subject to the approval of the State Government.

14. Salary of the Chairman.—The Chairman of the Board shall be paid a monthly remuneration to be fixed by the State Government besides travelling and other admissible allowances.

15. Executive Officer.—There shall be under the Chairman a paid Executive Officer whose salary shall be fixed by the Board and who will act as Chief Inspector also for the orphanages and widows' homes throughout the State on whose recommendation the Chairman, subject to the approval of the Board, will grant recognition to an orphanage or a widows' home as laid down under sections 3 and 6.

16. Function of the Board.—(1) It will be the duty of the Board to afford protection to the orphans and widows and to that end bear all responsibility for the opening, maintenance, supervision and control of all orphanages and widows' homes throughout the State.

(2) The Board of Control may appoint as many Inspectors as necessary for the periodical inspection and guidance of the orphanages and widows' homes.

17. Managing committee to arrange for training, etc., of inmates.—Every orphanage or widows' home shall make suitable arrangements for the lodging, clothing, feeding, training and education of the inmates thereof until they are rehabilitated, or in the case of an orphanage, an inmate attains the age of 18 years.

18. Transfer of inmates.—The Chairman on the report of the Chief Inspector may, after taking into consideration the accommodation available for the purpose in any orphanage and widows' home, assign an orphan, or a widow or a female of any age, to any other orphanage or widows' home, as the case may be, or transfer an inmate of one orphanage or widows' home to another orphanage or widows' home.

19. Discharge of inmates.—If, at any time, the committee of management is satisfied that an inmate of an orphanage or a widows' home has become fit to earn his or her living or is otherwise fit to be discharged from the orphanage or widows' home, it may discharge such inmate:

Provided that no female inmate of any orphanage or widows' home shall be discharged or given in marriage or entrusted to the charge of any person who claims himself or herself to be her guardian, unless such female inmate has made a declaration before a Magistrate that she consents to such discharge, marriage or entrustment:

Provided further that in the case of a female inmate who is a minor, the prior approval of the District Magistrate or when the District Magistrate is not available, the Sub-Divisional Magistrate, shall, in addition to such declaration, be necessary for such discharge, marriage or entrustment.

20. Report regarding death of inmate or change in administrative personnel.—Within a fortnight of the occurrence of the death of any inmate or change in the personnel in immediate charge of

the administration of any orphanage or widows' home, the committee of management shall give written notice thereof to the Chairman provided that the incident of a sudden death shall be reported immediately.

21. Inspection of orphanages and widows' homes.—(1) Every orphanage or widows' home in respect of which a recognition has been granted under section 6 shall, besides the routine inspection by the Chief Inspector at the interval of every six months, be inspected by the District Magistrate or any other officer of the State Government of gazetted rank, other than a police officer, authorised in writing in this behalf by the Chairman, and the committee of management and all other persons in charge thereof shall be bound to afford every facility to the officer so authorised in carrying out the inspection. Such inspection shall relate to matters affecting the proper management of the orphanage or widows' home, including accounts, and a copy of the inspection report shall be forwarded by the inspecting officer to the Chairman for such action as the Board may think fit:

Provided that the District Magistrate or any other Magistrate authorised by him in this behalf shall have the right to enter and inspect any orphanage or widows' home at any time of the day or night, if he has reasons to believe that any cognizable offence is committed or is likely to be committed and the committee of management and all other persons in charge thereof shall not refuse such entry or inspection.

(2) The Board of Control shall appoint for each orphanage or widows' home, a panel of visitors consisting of such number of persons as may be prescribed, of whom at least one shall be a woman, which shall have the power to inspect the orphanage or widows' home on such dates and at such hours as may be fixed by the Chairman and the committee of management and all other persons in charge thereof shall be bound to afford every facility to the visitors in carrying out the inspection including examination of any document, register or other paper relating to such orphanage or widows' home in the possession of the committee of management or any other person in charge thereof at the time. A copy of the inspection report shall be duly forwarded to the Chairman within a fortnight of the date of such inspection for such action as the Board of Control may think fit:

Provided that such inspection may be carried out by any individual member of the Board if he is authorised by the Board to do so.

22. Appeals.—Any person aggrieved by an order of refusal to grant recognition under section 6 or by an order of cancellation, recognition or prohibition of admission under sections 7 and 8 may, within thirty days after the date of such order and on payment of the prescribed fees, appeal to the State Government whose decision shall be final.

23. Penalty.—(1) Whoever contravenes any of the provisions of this Act or the rules made thereunder, other than a contravention of the provision of section 19 shall be punished with fine which

may extend to five hundred rupees in the case of a first offence, and with imprisonment for a period not exceeding six months in the case of a second or subsequent offence.

(2) Whoever contravenes any provision of section 19 shall, on conviction, be punished with imprisonment for a term not exceeding one year:

Provided that in case of marriage, if any sum of money or valuable consideration is taken in view of giving away an orphan girl or a woman, the term of imprisonment may extend to 5 years with a fine double of the amount received as the consideration money or gift.

24. Prosecutions.—No prosecution under this Act shall be instituted except with the previous sanction of the State Government obtained by the Board of Control:

Provided that no prosecution shall be instituted in case a boy or a girl orphan or a widow runs away stealthily from an orphanage or a widows' home. But in such cases the secretary or whoever is in charge of an orphanage or widows' home must lodge the information with the nearest police station and immediately take steps to inform the Chairman.

25. Power to make rules.—(1) The Board of Control with the approval of the State Government, may, after previous publication, make rules, not inconsistent with the provisions of this Act, for carrying out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which a six-monthly return shall be submitted to the Board of Control by the managing committee of an orphanage or a widows' home;

(b) the form in which an application for recognition may be made and the particulars to be contained in such application;

(c) the form of recognition and the conditions to be specified therein;

(d) the term of office of the members of managing committee;

(e) the powers and functions of the managing committee;

(f) the number of members of the panel of visitors of an orphanage or a widows' home;

(g) the conduct of business of the committee of management;

(h) the manner in which the accounts of an orphanage or a widows' home shall be maintained and audited;

(i) the constitution of a reserve fund for an orphanage or a widows' home or the operation of the Savings Bank Account;

(j) the maintenance of registers and statements by the managing committee and the forms of such registers and statements;

(k) the manner in which inquiries shall be made under this Act by the Board;

(l) the authority to whom appeals shall be preferred and the procedure to be followed in such appeals;

(m) text of moral lessons referred to in section 5; and

(n) any other matter that may be, or is required to be, prescribed.

26. Power of managing committee to prescribe standards of boarding, etc., for orphanages and widows' homes.—Notwithstanding anything contained in this Act, a managing committee may frame rules and bye-laws prescribing standards of boarding, lodging, sanitation, health and hygiene for orphanages or widows' homes, provided that such rules and bye-laws are not inconsistent with the provisions of this Act or against any instruction or guidance issued by the Board of Control.

27. Power of the managing committee to provide for the Education of the inmates of orphanages and widows' homes.—A managing committee shall provide for the education of the inmates of an orphanage or a widows' home, and with this end in view may open and finance a technical school or a school for general education.

28. Power of Board of Control after the discharge of an inmate from an orphanage or a widows' home.—The Board of Control may authorise the managing committee to give shelter to an inmate in the orphanage or widows' home, after discharge, for a reasonable period till the discharged orphan or widow has found shelter and means of livelihood.

STATEMENT OF OBJECTS AND REASONS

There are hundreds of orphanages and widows' homes in the country whose pitiable conditions of existence do not appear to have been taken into consideration in any legislation so far undertaken in any State Legislature or in Parliament.

The Bills so far introduced either in the State Legislatures or in Parliament have sought to penalise criminal activities commonly presumed to be indulged in by orphanages and widows' homes and to vest in the executive powers to deal with such activities. But very little attention has been given to the constructive side of these institutions. What are the difficulties in running an orphanage and a widows' home and how best such institutions could be helped are the needs of the time.

It must be admitted on all hands that orphanages and widows' homes are necessary for the society for diverse reasons. Besides giving protection to the unprotected and unhappy members of the society and affording an outlet for laudable charity for charitably minded persons, these institutions, if run on proper *national* lines, can help the building of the nation.

This Bill takes into account all the existing orphanages which are mostly run by private efforts and as communal institutions, and

while it leaves them the option of giving religious instruction of any particular religion at the cost of foregoing any State-aid, it provides for orphanages and widows' homes on a national secular basis.

Thus every State in India is required to have a Board of Control for orphanages and widows' homes within the State, with the Head Office for its Chairman in the capital town of the State. This Board of Control is to be constituted by the democratic method of election of representatives from the district orphanages and widows' homes.

So far as the constructive side is concerned, no existing orphanage or widows' home is to be disturbed but only its management is sought to be regularised through a managing committee elected through an electoral college provided under the Bill.

No attention has been given so far to the difficulties and hardships experienced by those bodies which have been running these humanitarian institutions. It would be in the fitness of things after the attainment of independence by the country for the State either to take over the management of these institutions or help them to be run on democratic lines so as to afford an opportunity to the people to take lessons in the art of self-government through such institutions.

One distinguishing feature of this Bill is that while care has been taken under this Bill to provide against any criminal activities that are commonly presumed to be indulged in by orphanages and widows' homes, the fundamental humanitarian ideas of these institutions have been kept prominently in view, and instead of being penalised and asked to function with licence under police surveillance they are to be recognised like other educational institutions.

The Bill seeks to reconcile the two extreme views, one advocating the unprotected orphans and unprotected widows to be the sole responsibility of the State and the other leaving their charge to the shoulders of private bodies. Under this Bill provision has been made for three categories of orphanages and widows' homes. The first is State-managed which can be opened in that District where there is no orphanage or widows' home in existence. The second is State-aided which is supposed to be in existence through private effort but which is to be aided by the State. The third is private institutions run by religious missionaries which prefer to impart religious instruction of any particular denomination and forego State-aid. All the three classes of orphanages and widows' homes are to be under the control and discipline of the State provided under this Bill.

KAILASH BIHARI LALL.

S. N. MUKERJEE,

Secretary.

